



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,589	02/25/2002	Tadaaki Yoneda	02860.0704	8702

22852 7590 12/05/2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

YE, LIN

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/080,589

Applicant(s)

YONEDA, TADAAKI

Examiner

Lin Ye

Art Unit

2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 12 and 14-17.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Lin Ye
Examiner
Art Unit: 2615

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/22/2005 have been fully considered but they are not persuasive as to claims 12 and 14-17.

For claim 12, the applicant argues that Ogawa (U.S. Patent 6,470,413) does not disclose that "...read out the camera control program in the first storing region **while** writing or erasing image data in the second storing region" as recited in claim 12, because Ogawa describes recording data as an image file after the execution of a signal processing program; and also the examiner conceded that "the Ogawa reference does not explicitly show when the memory (Flash ROM 15) is in process of rewriting (erasing and writing data operation) operation of data stored therein, a readout operation for another one of them can be simultaneously performed" as recited in the examiner's Office Action dated February 28, 2005, therefore examiner now appears to be alleging the opposite.

The examiner disagrees. Applicant filed an amendment on May 31, 2005, and the applicant deleted the original limitation "... **simultaneously performed**..." and replaced it by "...**while**...". It should be noted that the means of "while" is broad than the means of "simultaneously performed". The means of "simultaneously performed" requires all processes (operations) from the first and second region are **started performing in same time**. The means of "while" can be **either** all processes are started performing in same time **or** any one of the processes in the second region started **as long as** the all the processes in

first region have not been finished (no need to start performing in same time). The Ogawa reference clearly disclose the signal processing accelerator operates in cooperation with the processing software for the CPU 5, when **one part** or all of the signal processing has been completed, the data is recorded (written) as an image file on the flash ROM 15 (e.g., this shows just part of the signal processing has been completed, the writing operation of image data is already started. See Col. 5, lines 32-36). For those reasons, the Ogawa reference discloses "...read out the camera control program in the first storing region **while** writing or erasing image data in the second storing region" as recited in claim 12.

The applicant also argues that the firmware of Ogawa, which is stored in one storing region, cannot constitute both the claimed "camera control program" and the claimed "camera control data", because the claim 12 requires that "camera control program" and "camera control data" be stored in first and second (i.e., different) storing regions.

The examiner disagrees. The Ogawa reference clearly shows in Figure 8, the firmware (including original and new modules) is stored in different storing regions (module sections) of Flash ROM. The new Module of the firmware is considered as "camera control program" for updating types of CPU program and new function of a camera (See Col. 9, lines 20-27). The original modules of the firmware are considered as "camera control data". The only things that the Ogawa reference does not explicitly states the "camera control data" (the original modules of the firmware) is whether or not recorded during a manufacturing process.

The Helms reference (U.S. 6,344,874) teaches in Figure 1, a camera includes a processor which can and is used to control exposure, timing, aperture, and such typically the processor is preprogrammed at the **manufacture** with its **own firmware** (See Col. 4, lines 66-67 and

Art Unit: 2615

Col. 5, lines 1-3). The Helms reference is evidence that one of ordinary skill in the art at the time to see more advantages the firmware (control data) is recorded during a manufacturing process so that making sure the firmware is specifically for your camera model and manufactures may offer firmware updates that fix camera problems found after its release easily. For that reason, it would have been obvious to one of ordinary skill in the art to modify the camera system of Ogawa ('413) by preprogramming the camera at the manufacture with it own camera control data as taught by Helms ('874).

2. The claims 12 and 14-17 will be rejected as set Final in the previous Office Action mailed on 8/1/2005.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Ye whose telephone number is (571) 272-7372. The examiner can normally be reached on Mon-Fri 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Lin Ye', with a stylized, flowing script.

Lin Ye
Examiner
Art Unit 2615

December 1, 2005